

REMARKS

Claims 10, 11, 14 and 18 are currently pending in this application; Claim 10 is independent.

The Examiner has rejected Claims 10, 11 and 14 under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 3,757,979 to Berghahn (hereinafter "Berghahn") in view of U.S. Patent No. 5,853,833 to Sudo (hereinafter "Sudo '833"). Applicant respectfully submits that the rejection is overcome in light of the following remarks.

Claim 10 recites a package for holding a dental implant with a fluid material preserving the dental implant. The package includes a capsule and a cap. The capsule is formed exclusively of cyclic olefin copolymer with an impermeability to moisture of less than 5% fluid loss per year, and the cap is formed of low density polyethylene.

The combination of a capsule made exclusively of a cyclic olefin copolymer and a cap made of low density polyethylene provides an excellent shelf life for the dental implant stored in the package, particularly when an electrolyte or an aqueous solution is used as a storage fluid.

Turning to the prior art, Berghahn discloses a container having a bottle (5) and a closure (3) for sealing the bottle. Berghahn further teaches that the closure is made of low density polyethylene (see, Col.6, Lines 23-26). The Examiner conceded that Berghahn fails to disclose a capsule formed exclusively of cyclic olefin copolymer, but relied on Sudo '833 for the alleged teaching of the foregoing feature.

Sudo '833 is related to a sanitary container for preventing the formation of alkali flakes at the opening of the container and improving oxygen and nitrogen

transmission resistance of the container. Specifically, the container comprises a base container made of a cyclic olefin polymer and an inorganic coating formed on a surface of the base container (see, Col.3, Lines 6-10). Thus, the entire container, having structurally integrated base container and coating, is NOT made exclusively of cyclic olefin copolymer.

Furthermore, the foregoing characterization of the Sudo '833 container not exclusively made of cyclic olefin polymer is reinforced by the description that “the sanitary container according to the present invention is equipped with significantly-improved transmission resistance to oxygen and nitrogen owing to the provision of the inorganic coating” (see, Col.3, Lines 20-23). Thus, Sudo '833 positively requires both cyclic olefin polymer and materials for forming the inorganic coating in the structure of the container.

In addition, Claim 1 of Sudo '833 recites a sanitary container comprising a base container and an inorganic coating formed on a surface of the base container (see, Col. 9 Lines 10-17 of Sudo '833). The structure of the claim indicates that the container includes at least a base container and a coating, which means the coating must formed in addition to the cyclic olefin copolymer layer, as opposed to the Examiner's contention that Sudo '833 discloses that the sanitary container may include a silicon oxide coating applied to the surface of the cyclic olefin container (see Page 4, Lines 5-6 of the Action).

Applicant further submits that neither Sudo '833 nor Berghahn disclose a particular cyclic olefin copolymer having an impermeability to moisture of less than 5% fluid loss per year, as recited in Claim 10.

In contrast, the claimed invention contemplates a combination of a capsule made exclusively of cyclic olefin copolymer with an impermeability to moisture of less than 5% fluid loss per year and a cap formed of low density polyethylene.

Hence, the hypothetical combination of Berghahn and Sudo '833 does not teach or suggest the combination of features recited in Claim 10, from which all the other claims depend.

The Examiner has further rejected Claim 18 under 35 U.S.C. §103(a) as allegedly unpatentable over Berghahn in view of Sudo '833 and further in view of U.S. Patent No. 5,723,189 to Sudo (hereinafter "Sudo '189"). Applicant respectfully traverses the rejection in light of the following remarks.

Claim 10, from which Claim 18 depends, is discussed above. Berghahn and Sudo '833 are discussed above with respect to Claim 10.

Sudo '189 is relied on to allegedly teach an ampoule within the capsule. Sudo '189 does not remedy the underlying deficiencies of Sudo '833 and Berghahn with respect to the feature of a cap formed exclusively of cyclic olefin copolymer having an impermeability to moisture of less than 5% fluid loss per year.

Thus, none of the references, taken alone or in any combination, teach or fairly suggest the combination of features recited by Claim 10, from which Claim 18 depends.

Accordingly, the rejection of Claim 18 under 35 U.S.C. §103(a) as allegedly unpatentable over the hypothetical combination of Sudo '833, Berghahn and Sudo '189 is overcome, and withdrawal thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter I. Bernstein", with a long horizontal flourish extending to the right.

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